



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,160	12/20/2001	Katsushige Hata	112857-308	5620

29175 7590 10/17/2005

BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER

NGUYEN, CAO H

ART UNIT	PAPER NUMBER
----------	--------------

2173

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/037,160	HATA ET AL.	
	Examiner	Art Unit	
	Cao (Kevin) Nguyen	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liles et al. (US Patent No. 5,880,731) in view of Skelly (US Patent No. 6,064,383).

Regarding claim 1, Liles discloses an information processing device, comprising:
a manager for managing data on feeling expressions of an avatar which correspond to a user's conditions [..Textual messages transmitted to the other participants can indicate what the user is saying or thinking, and alternatively, can indicate a related action or emotional condition of the user; see col. 10, lines 1-32]; a storage area for storing data on image displays of the avatar which correspond to the feeling expressions [..The visual frames portray different views of an avatar to produce a visual impression of an animation of the avatar when rapidly displayed in the sequence. In the script for each gesture, specific visual frames comprising the sequence and time intervals determining a duration for displaying each visual frame of the sequence are indicated; see col. 3, lines 32-67]; and a display controller for controlling the image displays of the avatars based on the data stored in the storage area [...Each of the avatars that are presented to a user for selection in character selection dialog box 70 corresponds to a

different bitmap file. Each of the bitmap files contains a predefined number of frames that represent the avatar in different poses and/or emotional states; see col. 7, lines 43-65]; however, Liles fails to explicitly teach managing data including a plurality of conditions and a plurality of levels associated with each condition wherein each of the feeling expressions are based on at least one of the conditions and one of the levels, an input device provided with a function of detecting information on a living body, and an image input device.

Skelly discloses managing data including a plurality of conditions and a plurality of levels associated with each condition wherein each of the feeling expressions are based on at least one of the conditions and one of the levels, an input device provided with a function of detecting information on a living body, and an image input device (see col. 4, lines 27-64 and col. 5, lines 12-44). It would have been obvious to one of an ordinary skill in the art at the time the invention was made to provide managing data including a plurality of conditions and a plurality of levels associated with each condition wherein each of the feeling expressions are based on at least one of the conditions and one of the levels as taught by Skelly to the use of avatar interaction on-line chat session of Liles in order to enable the user to select an emotion for graphical character and intensity of the emotion to be reflected in the appearance of the character by using an input device.

Regarding claim 2, Liles discloses, wherein the avatar exists in a virtual space constructed on a network, and the data on the feeling expressions are set when the user enters the virtual space (see figures 5-8).

Regarding claim 3, Liles discloses wherein the data managed by the manager are set in accordance with information of the user, the information being at least one of living body information and variation of expressions (see col.10, lines 1-32).

Regarding claim 4, Liles discloses further comprising a voice controller for controlling a tone of voices uttered from the avatar based on the data stored in the storage area (see col. 12, lines 34-49).

Regarding claim 5, Liles discloses manager manages the data on the feeling expressions based on a table in which types of feelings and levels thereof are associated with one another (see col. 13, lines 50-67).

Regarding claim 6, Liles discloses wherein the display controller controls a display including a motion picture of the avatar (see col. 14, lines 15-67).

Regarding claim 7, Liles discloses method for enabling a plurality of users to participate as respective avatars in a virtual space constructed on a network and to have conversations with other users, the method comprising the steps of managing data on feeling expressions of an avatar which correspond to a user's conditions; controlling storage of data on image displays of the avatar which correspond to the feeling expressions, and controlling the image displays of the avatar based on the storage of data on the image displays (see figures 1-9).

Regarding claim 8, Liles discloses further comprising the step of controlling the data on the feeling expressions of the avatar based on voices uttered by the avatar (see col. 15, lines 12-65).

As claims 9-15 are analyzed as previously discussed with respect to claims 1-8 above.

Regarding claims 16 and 18, Liles discloses wherein a walk-through environment is provided to a user in the virtual space (see col. 13, lines 34-49).

Regarding claims 17 and 19, Liles discloses wherein a walk-through environment can be controlled by a user in the virtual space (see col. 13, lines 50-67).

Regarding claim 20, Liles discloses wherein controller respectively controls the walk function of the character device (see col. 14, lines 14-34).

Response to Arguments

Applicant's arguments filed on 08/01/05 have been fully considered but they are not persuasive.

In response to applicant's argument that "an input device provided with a function of detecting information on a living body, and an image input device", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

On pages 9-10 of the remarks; Applicant argues that the combination of Liles and Skelly do not teach or suggest "an input device provided with a function of detecting information on a living body, and an image input device." However, the limitations as claimed set forth to read on Liles "a gesture by an avatar that represents a participant in an on-line graphic chat session, comprising the steps of providing an animation in which the avatar appears to move in a defined

manner that conveys the gesture, said gesture being determined by the participant to convey at least one of a plurality of different personality traits and/or current emotions; during an idle period for the participant in the chat session, when the avatar is otherwise inactive, automatically initiating the animation without requiring any input by the participant; and during an active period for the participant in the chat session, when the avatar is performing a selected action, automatically initiating another animation in which the avatar appears to move in a defined manner that conveys another gesture, the other gesture being determined by the participant to convey at least one of a plurality of different personality traits and/or current emotions” (see col. 14, lines 15-34 and figure 5).

In response to applicant's argument on pages 9-10 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Liles discloses a manager for managing data on feeling expressions of an avatar which correspond to a user's conditions used in combination of Skelly's an input device provided with a function of detecting information on a living body, and an image input device.

One skill in the art would have been obvious to provide managing data including a plurality of conditions and a plurality of levels associated with each condition wherein each of the feeling expressions are based on at least one of the conditions and one of the levels, an input device provided with a function of detecting information on a living body, and an image input

Art Unit: 2173

device as taught by Skelly to the use of avatar interaction on-line chat session of Liles in order to enable the user to select an emotion for graphical character and intensity of the emotion to be reflected in the appearance of the character by using an input device.

On page 12 of the remarks; Applicant argues that the combination of Liles and Skelly do not teach or suggest "wherein the computer can select the emotion and/or gesture to display based on information detected on a living body." However, the limitations as claimed set forth to read on Skelly "the system uses the polar coordinates to identify the appearance that is associated with the coordinates. The system maintains a mapping table or other structure that maps each of the possible positions of the position indicator within the circular region to character appearances (see col. 6, lines 13-65).

Accordingly, the claimed invention as represented even amended in the claims does not represent a patentable distinction over the art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after


Art Unit: 2173

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cao (Kevin) Nguyen
Primary Examiner
Art Unit 2173

10/14/05